

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re: C. W. Son d/b/a United Roofing Consultants Inc.)
 Personal Property Account #P-135931) Davidson County
 Tax Year 2007)

INITIAL DECISION AND ORDER DISMISSING APPEAL

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

APPRAISAL	ASSESSMENT
\$63,300	\$18,990

On October 19, 2007, the State Board of Equalization ("State Board") received an appeal by the taxpayer. As indicated on the appeal form, this assessment was not appealed to the Davidson County Board of Equalization ("county board") during its regular annual session for tax year 2007.

The undersigned administrative judge conducted a hearing on this matter on March 13, 2008 at the Davidson County Assessor's Office. Present at the hearing were the taxpayer, C.W. Son d/b/a United Roofing Consultants, Inc., Allen Morgan, from the Davidson County Assessor's Office, Personalty Division and Jenny Hayes, attorney from the Metro. Legal Department representing the interest of the Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b) (2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such **reasonable cause**, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*Emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovetz*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In this case, the taxpayer, Mr. Son, did not appeal to the Davidson County Board of Equalization in a timely fashion because; according to his testimony and the appeal form he "got a tax bill for 2007". He also indicated that he had been in business for five (5) years and had never filed a Schedule B before. The record shows that the notice was sent to United Roofing Consultants at 2803 Foster Avenue, Suite/Unit A109 in Nashville, Tennessee, 37210, which according to the testimony is the correct address of the business.

Tenn. Code Ann. § 67-5-1412(b) (1) provides that:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in section 67-5-508.

Here, Mr. Son states that he did not receive the Notice of Assessment because of some error in the mailing system, but he could offer no proof. He did admittedly receive the tax bill from the trustee in October¹. Mr. Morgan states that for some reason this is the first year that the company has been "picked up" by the County. Ms. Hayes noted that while the company has had a free ride for several years, it is nonetheless responsible for compliance with the statutes governing personalty.

In 1991, the General Assembly amended Tenn. Code Ann. § 67-5-1412(e) by adding the following language:

The taxpayer or owner shall have the right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon

¹ It was noted that the Trustees Office gets the address for the businesses from the Assessor's Office.

demonstrating such reasonable cause, the (State Board) shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Mr. Son, in the opinion of the Administrative Judge, has not demonstrated that there is reasonable cause to excuse his failure to go to the County Board.

ORDER

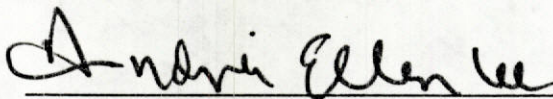
It is, therefore ORDERED that this appeal shall be dismissed for lack of jurisdiction by the State Board of Equalization.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 15th day of April, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: C.W. Son
Jo Ann North, Assessor of Property